

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CASE NO. 12-

B&M LINEN CORP and 220 COSTER LLC,
Plaintiff,

CV 12 - 2982

vs.

220 LAUNDRY LLC, ELIOT SPITZER,
MICHAEL STEINBERG and ADAM J.
TELLER

NOTICE OF REMOVAL

Defendants

NO SUMMONS ISSUED

vs.

MIRON MARKUS and BORIS MARKUS
Additional Counterclaim Defendants.

BIANCO, J.

WALL, M.J.

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

2012 JUN 14 AM 11:50

FILED
CLERK

220 LAUNDRY LLC and ELIOT SPITZER

Third -party Plaintiffs,

vs.

MIRON MARKUS and BORIS MARKUS

Third-party Defendants

Pursuant to Rule 9027 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and 28 U.S.C. §§ 1334 and 1452(a), plaintiff and third party defendant B&N Linen Corp. ("B&M"), in a civil action pending in the Supreme Court of the State of New York, Nassau County, B&M LINEN CORP and 220 COSTER LLC v. 220 LAUNDRY LLC, ELIOT SPITZER, MICHAEL STEINBERG and ADAM J.

TELLER Index No. 13989/11 (the “Action”), by their undersigned attorneys, give notice that the Action is hereby removed to the United States District for the Eastern District of New York (the “District Court”). Removal is based upon the following:

JURISDICTION AND BACKGROUND

1. On or around September 27, 2011, B&M and 220 Coster LLC commenced the Action in state court. The Action has been assigned Index No. 13989/11.
2. The Action is based upon claims arising from an alleged breach of contract.
3. The Action seeks the recovery of monies, in excess of \$10,000,000.
4. The Action is in its early stages.
5. On April 16, 2012, B&M filed a voluntary Chapter 11 Bankruptcy Petition with the United States Bankruptcy Court for the Southern District of New York.
6. The allegations in the Action arise under and/or are related to the Defendant’s Chapter 11 case under the Bankruptcy Code and are intertwined with the disputed claims of the defendants.
7. Thus, removal of the Action is appropriate under 28 U.S.C. § 1452(a), which allows for the removal of claims and causes of action in a civil action, other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit’s police or regulatory power.
8. The District Court has jurisdiction over the Action pursuant to 28 U.S.C. §§ 1334 and 1452(a).

9. This Court derives its authority to hear and determine the Action on reference from the District Court pursuant to 28 U.S.C. §§ 157(a) and (b)(1) and the District Court's General Order of Reference.

VENUE

10. Venue for removal purposes is proper in this Court pursuant to 28 U.S.C. § 1452(a) and Bankruptcy Rule 9027(a), because the Action is pending in a court in this District and the District Court has jurisdiction under 28 U.S.C. § 1334.

CORE/NON-CORE PROCEEDINGS

11. This action is a "core proceeding" within the meaning of 28 U.S.C. § 157(b)(2)(A) and (O).

MISCELLANEOUS REQUIREMENTS

12. All prerequisites for removal under 28 U.S.C. § 1452 and Bankruptcy Rule 9027 and any other applicable provisions of law have been met.

13. B&M will promptly file a true and correct copy of this Notice of Removal with the Clerk of the Court from which the Action was removed.

14. B&M will promptly serve a true and correct copy of this Notice of Removal upon counsel for all parties with an interest in the removed Action.

15. The undersigned has been advised that pursuant to Bankruptcy Rule 9027(a), copies of substantially all process and pleadings in the underlying Action are annexed hereto as Exhibits.

WHEREFORE, B&M hereby removes the Action to the United States District Court for the Eastern District of New York, and requests that the Action be transferred and referred to the United States Bankruptcy Court for the Southern District

of New York pursuant to 28 U.S.C. § 157(a) and the District Court's General Order of Reference.

Dated: New York, New York
June 14, 2012

SHAFFERMAN & FELDMAN LLP
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By: _____


Joel M. Shafferman